



Reprinted
February 5, 2004

HOUSE BILL No. 1151

DIGEST OF HB 1151 (Updated February 4, 2004 11:40 pm - DI 75)

Citations Affected: IC 3-6; IC 3-11; IC 3-12; IC 3-14; IC 33-16; IC 35-44; noncode.

Synopsis: Absentee ballots. Permits a voter who is qualified to vote in person to vote by absentee ballot by mail. Removes all other qualifications for a voter to vote by absentee ballot by mail except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.) Requires an absentee ballot application to be filed within specific times. Requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. Requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury. Permits an absentee voter board or the circuit court clerk to compare the signature on an absentee ballot application to the signature on the voter's registration record to make certain determinations regarding the validity of an absentee ballot. Permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. Provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. Requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. Makes other changes relating to absentee ballots, eligibility of individuals serving as watchers, and the recounting of ballots. Establishes new criminal offenses relating to fraud and misrepresentation in elections. Requires the legislative council to direct a legislative study committee to study existing criminal penalties for election law violations.

Effective: Upon passage; July 1, 2004.

Mahern

January 13, 2004, read first time and referred to Committee on Elections and Apportionment.
January 29, 2004, amended, reported — Do Pass.
February 4, 2004, read second time, amended, ordered engrossed.

HB 1151—LS 7090/DI 75+



C
o
p
y

Reprinted
February 5, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1151

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-6-8-2.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. **(a)** A watcher
3 appointed under this chapter must **satisfy both of the following:**

4 **(1) A watcher must** be a registered voter of the county.

5 **(2) A watcher may not be related to a candidate in a manner**
6 **that would disqualify the watcher to serve as a precinct**
7 **election officer under IC 3-6-6-7(a)(4).**

8 SECTION 2. IC 3-11-4-1, AS AMENDED BY P.L.126-2002,
9 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2004]: Sec. 1. (a) A voter who is otherwise qualified to vote
11 in person is entitled to vote by absentee ballot: ~~Except~~

12 **(1) by mail;**

13 **(2) before an absentee voter board** as ~~otherwise~~ provided in this
14 article; ~~a voter voting by absentee ballot must vote~~

15 **(3) in the office of the circuit court clerk; or**

16 **(4) at a satellite office established under IC 3-11-10-26.3.**

17 **(b) A county election board, by unanimous vote of its entire**



C
o
p
y

membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 3. IC 3-11-4-2, AS AMENDED BY P.L.126-2002, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. **Except as provided in subsection (b), the voter must sign the absentee ballot application.**

(b) **If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter.** If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) **A person who assists an individual in completing an absentee ballot application shall state the following information on the application:**

(1) **The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.**

(2) **The date and location at which this assistance was provided.**

(3) **That the individual has no knowledge or reason to believe that the individual submitting the application:**

(A) **is ineligible to vote or ineligible to cast an absentee ballot; or**

(B) **did not properly complete and sign the application.**

C
o
p
y



(d) A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:

(1) noon seven (7) days after the individual receives the application; or

(2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first.

(e) An individual filing an absentee ballot application received from another individual must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

(1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.

(2) A statement that the individual filing the affidavit has complied with the Indiana laws governing the submission of absentee ballot applications.

(3) A statement that the individual has no knowledge or reason to believe that the individual whose application is to be filed:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(4) A statement that the individual is executing the affidavit under the penalties of perjury.

(5) A statement setting forth the penalties for perjury.

(f) The county election board shall record the date and time of the filing of the affidavit and provide the individual with a file stamped copy of the affidavit without collecting any copying fee.

SECTION 4. IC 3-11-4-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter which contains a standardized oath for those voters. The form of the application for an absentee ballot must:

(1) require the applicant to swear to or affirm under the penalties of perjury that all the information set forth on the application is true to the best of the applicant's knowledge and

**C
o
p
y**



1 belief;

2 (2) require a person who assisted with the completion of the
3 application to swear to or affirm under the penalties of
4 perjury the statements set forth in section 2(c) of this chapter;
5 and

6 (3) set forth the penalties for perjury.

7 (c) The form prescribed by the commission shall require that a voter
8 who:

9 (1) requests an absentee ballot; and

10 (2) is eligible to vote in the precinct under IC 3-10-11 or
11 IC 3-10-12;

12 must include the affidavit required by IC 3-10-11 or a written
13 affirmation described in IC 3-10-12.

14 SECTION 5. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003,
15 SECTION 114, IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an
17 application for an absentee ballot, the county election board **(or the**
18 **absentee voter board in the office of the circuit court clerk)** shall
19 determine if:

20 (1) the applicant is a voter of the precinct in which the applicant
21 resides, according to the records of the county voter registration
22 office;

23 (2) the information set forth on the application appears to be
24 true; and

25 (3) the application has been completed and filed in accordance
26 with Indiana and federal law.

27 If the members of the absentee voter board are unable to agree
28 about any of the determinations described in subdivisions (1)
29 through (3), the issue shall be referred to the county election board
30 for determination. The members of the absentee voter board or the
31 county election board may compare the voter's signature on the
32 application with the voter's signature on the voter's registration
33 record to make a determination under this subsection.

34 (b) If:

35 (1) the applicant is not a voter of the precinct according to the
36 registration record; or ~~if~~

37 (2) the application as completed and filed:

38 (A) contains a false statement; or

39 (B) does not otherwise comply with ~~this chapter~~; **Indiana or**
40 **federal law;**

41 **as alleged under section 18.5 of this chapter**, the county election
42 board shall deny the application.

C
O
P
Y



1 ~~(b)~~ (c) This subsection applies ~~after December 31, 2003~~, to an
 2 absentee ballot application submitted by an absent uniformed services
 3 voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d),
 4 if the application is denied, the county election board shall provide the
 5 voter with the reasons for the denial of the application. Unless the voter
 6 is present when the board denies the application, the board shall send
 7 a written notice stating the reasons for the denial to the voter. The
 8 notice must be sent:

9 (1) not later than forty-eight (48) hours after the application is
 10 denied; and

11 (2) to the voter at the address at which the voter requested that the
 12 absentee ballot be mailed.

13 ~~(c)~~ This subsection applies ~~after December 31, 2003~~.

14 (d) If the county election board determines that the applicant is a
 15 voter of the precinct under subsection (a), the board shall then
 16 determine whether:

17 (1) the applicant was required to file any additional
 18 documentation under IC 3-7-33-4.5; and

19 (2) the applicant has filed this documentation according to the
 20 records of the county voter registration office.

21 If the applicant has not filed the required documentation, the county
 22 election board shall approve the application if the application otherwise
 23 complies with this chapter. The board shall add a notation to the
 24 application and to the record compiled under section 17 of this chapter
 25 indicating that the applicant will be required to provide additional
 26 documentation to the county voter registration office under
 27 IC 3-7-33-4.5 before the absentee ballot may be counted.

28 ~~(d)~~ (e) If the applicant:

29 (1) is a voter of the precinct according to the registration record;

30 (2) states on the application that the applicant resides at an
 31 address that is within the same precinct but is not the same
 32 address shown on the registration record; and

33 (3) after December 31, 2005, provides a voter identification
 34 number on the application to permit transfer of registration under
 35 IC 3-7-13-13;

36 the county election board shall direct the county voter registration
 37 office to transfer the applicant's voter registration address to the
 38 address within the precinct shown on the application. The applicant's
 39 application for an absentee ballot shall be approved if the applicant is
 40 otherwise eligible to receive the ballot under this chapter.

41 SECTION 6. IC 3-11-4-18, AS AMENDED BY P.L.209-2003,
 42 SECTION 116, IS AMENDED TO READ AS FOLLOWS

C
o
p
y



[EFFECTIVE JULY 1, 2004]: Sec. 18. (a) ~~If a voter satisfies any of the following,~~ The county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(1) ~~The voter will be absent from the county on election day:~~

(2) ~~The voter will be absent from the precinct of the voter's residence on election day because of service as:~~

(A) ~~a precinct election officer under IC 3-6-6;~~

(B) ~~a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;~~

(C) ~~a challenger or pollbook holder under IC 3-6-7; or~~

(D) ~~a person employed by an election board to administer the election for which the absentee ballot is requested:~~

(3) ~~The voter will be confined on election day to the voter's residence; to a health care facility; or to a hospital because of an illness or injury:~~

(4) ~~The voter is a voter with disabilities:~~

(5) ~~The voter is an elderly voter:~~

(6) ~~The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury:~~

(7) ~~The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open:~~

(8) ~~The voter is eligible to vote under IC 3-10-11 or IC 3-10-12:~~

(b) ~~This subsection applies after December 31, 2003:~~ If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) The ballot shall be mailed:

(1) on the day of the receipt of the voter's application; or

(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) The ballot described in subsection (d):

C
o
p
y



(1) must be mailed:

(A) on the day of the receipt of the voter's application; or

(B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;

whichever is later; and

(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ballots for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 7.IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with the county election board alleging that the application:**

(1) is not submitted by a voter of the precinct;

(2) contains a false statement; or

(3) has not been executed or filed in accordance with Indiana or federal law.

(b) The affidavit must be in a form prescribed by the commission and state the following:

(1) The name and title of the individual filing the affidavit.

(2) A brief statement of the facts known or believed by the individual regarding why:

(A) the applicant is not a voter of the precinct;

(B) the application contains a false statement; or

(C) the application has not been executed or filed in accordance with Indiana or federal law.

(3) That the individual is executing the affidavit under the penalties of perjury.

(4) The penalties for perjury.

C
o
p
y



(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.

(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.

SECTION 8. IC 3-11-4-21, AS AMENDED BY P.L.209-2003, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

(1) The name of the precinct and township (or ward and city or town).

(2) That the voter is:

(A) a resident of; or

(B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.

(3) The voter's complete residence address, including the name of the city or town and county.

(4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.

(5) That:

(A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;

(B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the

C
o
p
y



attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury.

SECTION 9. IC 3-11-10-24, AS AMENDED BY P.L.126-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail.

(1) The voter will be absent from the county on election day:

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8; IC 3-6-9; or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall then deposit the sealed envelope in the

C
o
p
y



1 **United States mail for delivery to the county election board or may**
 2 **authorize a member of the voter's household or the individual**
 3 **designated as the voter's attorney in fact to deposit the envelope in**
 4 **the United States mail.**

5 ~~(c)~~ **(d)** After a voter has mailed an absentee ballot to the office of
 6 the circuit court clerk, the voter may not recast a ballot, except as
 7 provided in:

- 8 (1) section 1.5 of this chapter; or
 9 (2) section 33 of this chapter.

10 SECTION 10. IC 3-11-10-25, AS AMENDED BY P.L.209-2003,
 11 SECTION 146, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by
 13 absentee ballot because of:

- 14 (1) illness or injury; or
 15 (2) caring for a confined person at a private residence;

16 and who is within the county on election day may vote before an
 17 absentee voter board or by mail.

18 (b) If requested by a voter described in subsection (a) or by a voter
 19 with disabilities whose precinct is not accessible to voters with
 20 disabilities, an absentee voter board shall visit the voter's place of
 21 confinement, the residence of the voter with disabilities, or the private
 22 residence:

- 23 (1) during the regular office hours of the circuit court clerk;
 24 (2) at a time agreed to by the board and the voter;
 25 (3) on any of the twelve (12) days immediately before election
 26 day; and
 27 (4) only once before an election, unless:
 28 (A) the confined voter is unavailable at the time of the board's
 29 first visit due to a medical emergency; or
 30 (B) the board, in its discretion, decides to make an additional
 31 visit.

32 (c) This subsection applies to a voter confined due to illness or
 33 injury. An absentee voter board may not be denied access to the voter's
 34 place of confinement if the board is present at the place of confinement
 35 at a time:

- 36 (1) agreed to by the board and the voter; and
 37 (2) during the regular office hours of the circuit court clerk. A
 38 person who knowingly violates this subsection commits
 39 obstruction or interference with an election officer in the
 40 discharge of the officer's duty, a violation of IC 3-14-3-4.

41 (d) The county election board, by unanimous vote of the board's
 42 entire membership, may authorize an absentee voter board to visit a

C
o
p
y



voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter. The Absentee Voter's Bill of Rights must be in a form prescribed by the commission and include the following:

- (1) A statement summarizing the rights and responsibilities of the voter when casting and returning the absentee ballot.**
- (2) A summary of Indiana and federal laws concerning providing assistance to the voter, completion of the ballot in secret, the intimidation of voters, and the return of the absentee ballot to the county election board.**
- (3) Information concerning how to report violations of the absentee ballot and election laws.**

SECTION 11. IC 3-12-6-1.5, AS AMENDED BY P.L.40-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A candidate for election to precinct committeeman or state convention delegate is **not** entitled to have the votes cast for that office recounted under this chapter. The political party of the candidate, in accordance with any applicable party rules,

C
o
p
y



determines the winner of an election to a political party office.

SECTION 12. IC 3-12-6-21.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.7. (a) **The recount commission shall count the ballots in each precinct separately.**

(b) Unless the recount commission makes a finding under subsection ~~(b)~~, **(c) and issues an order under subsection (d)**, the recount commission shall

~~(1)~~ count ballots in accordance with this article. ~~and~~

~~(2) not order that all ballots in a precinct not be counted.~~

~~(b)~~ (c) If

~~(1)~~ a party to the recount presents evidence of fraud, tampering, or misconduct ~~affecting that occurred in a precinct, the commission may make a finding that the fraud, tampering, or misconduct affected the integrity of the ballot balloting within a that precinct and~~

~~(2) to the extent that the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission is unable to determine the approximate number of votes that each candidate received in that precinct.~~

(d) If the commission makes a finding under subsection (c), the commission may order that none of the ballots from that precinct be counted.

(e) If the commission adopts an order permitted by subsection (d), the commission shall determine the number of votes received by each candidate without including any votes cast in the affected precinct.

SECTION 13. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor. **knowingly does any of the following commits a Class D felony:**

(1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.

(2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.

(3) Pays or offers to pay an individual for doing any of the following:

C
o
p
y



- 1 (A) Applying for an absentee ballot.
 2 (B) Casting an absentee ballot.
 3 (C) Registering to vote.
 4 (D) Voting.
 5 (4) Accepts the payment of any property for doing any of the
 6 following:
 7 (A) Applying for an absentee ballot.
 8 (B) Casting an absentee ballot.
 9 (C) Registering to vote.
 10 (D) Voting.
- 11 SECTION 14. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 2.5. A person who does either of the
 14 following, knowing that an individual is ineligible to register to
 15 vote or to vote, commits absentee ballot fraud, a Class D felony:
 16 (1) Solicits the individual to complete an absentee ballot
 17 application.
 18 (2) Solicits the individual to submit an absentee ballot
 19 application to a county election board.
- 20 SECTION 15. IC 3-14-2-3 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who:
 22 (1) subscribes the name of another person to an affidavit of
 23 registration **or application for an absentee ballot** knowing that
 24 the application contains a false statement; or
 25 (2) subscribes the name of another person to an affidavit of
 26 registration **or application for an absentee ballot** without
 27 writing on it the person's own name and address as an attesting
 28 witness;
 29 commits a ~~Class A misdemeanor~~ **Class D felony**.
- 30 SECTION 16. IC 3-14-2-5 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **A person**
 32 **who recklessly destroys or fails to deliver an absentee ballot**
 33 **application to the proper officer after the application has been**
 34 **executed in accordance with IC 3-11-4 commits a Class A**
 35 **misdemeanor.**
 36 (b) A person who recklessly destroys or fails to file or deliver to the
 37 proper officer a registration affidavit or form of registration after **it the**
 38 **affidavit or form** has been executed commits a Class A misdemeanor.
- 39 SECTION 17. IC 3-14-2-13 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. A person who
 41 knowingly hires or solicits another person
 42 (†) to come into Indiana; or

C
o
p
y



(2) to go from one precinct into another a precinct for the purpose of voting at an election at the precinct when the person hired or solicited is not a voter in Indiana or the precinct commits a Class D felony.

SECTION 18. IC 3-14-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of the commission, an employee or agent of the ~~commission~~, **election division**, or a member, **an employee, or an agent** of a county election board who knowingly delivers a ballot to a person except in the manner prescribed by this title commits a Class D felony.

SECTION 19. IC 3-14-2-16, AS AMENDED BY P.L.38-1999, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A person who knowingly does any of the following commits a Class D felony:

(1) Applies for or receives a ballot in a precinct other than that precinct in which the person is entitled to vote.

(2) Except when receiving assistance under IC 3-11-9, shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted.

(3) Except when offering assistance requested by a voter in accordance with IC 3-11-9, examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot.

(4) Receives from a voter a ballot prepared by the voter for voting, except:

(A) the inspector;

(B) a member of the precinct election board temporarily acting for the inspector;

(C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or

(D) a member of the voter's household or an individual designated as attorney in fact for the voter, **or an employee of the United States Postal Service**, when delivering an envelope containing an absentee ballot under IC 3-11-10-1.

(5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.

(6) Delivers a ballot to a voter to be voted, unless the person is:

(A) a poll clerk or authorized assistant poll clerk; or

(B) a member of a county election board or an absentee voter board acting under IC 3-11-10.

(7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or

C
o
p
y



1 assistant poll clerk.

2 (8) Delivers an absentee ballot to a team of absentee ballot
3 counters appointed under IC 3-11.5-4-22, a county election board,
4 a circuit court clerk, or an absentee voting board under IC 3-11-10
5 that is not the ballot cast by the absentee voter.

6 **(9) Delivers an absentee ballot prepared by the voter for**
7 **voting to a county election board, except for:**

8 **(A) the inspector;**

9 **(B) a member of the precinct election board temporarily**
10 **acting for the inspector;**

11 **(C) a member of a county election board or an absentee**
12 **voter board acting under IC 3-11-10; or**

13 **(D) a member of the voter's household or an individual**
14 **designated as attorney in fact for the voter, or an employee**
15 **of the United States Postal Service, when mailing an**
16 **envelope containing an absentee ballot under IC 3-11-10-1.**

17 **(10) Possesses an unmarked absentee ballot, unless the person**
18 **is authorized to possess the absentee ballot under this title as**
19 **any of the following:**

20 **(A) A printer.**

21 **(B) A county election board member.**

22 **(C) An absentee voter board member.**

23 **(D) An employee of the United States Postal Service when**
24 **delivering an envelope containing an absentee ballot.**

25 **(E) An individual authorized to deliver an absentee ballot**
26 **in a sealed envelope under IC 3-11-10-24.**

27 **(F) An absentee ballot counter under IC 3-11.5.**

28 **(G) A provisional ballot counter.**

29 **(H) A precinct election officer.**

30 **(I) The voter who applied for the absentee ballot.**

31 **(11) Completes or signs an absentee ballot application for a**
32 **voter, or assists a voter in completing an absentee ballot**
33 **application in violation of IC 3-11.**

34 SECTION 20. IC 3-14-2-18 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who
36 knowingly:

37 (1) does anything to enable any other person to see or know for
38 what ticket, candidates, or public questions the voter has voted on
39 a voting ~~machine~~; **system**; or

40 (2) moves into a position, or does any other thing, to enable the
41 voter to see or know for what ticket, candidates, or public
42 questions any other voter votes on a voting ~~machine~~; **system**;

C
O
P
Y



commits a Class D felony.

SECTION 21. IC 3-14-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

(1) takes a ballot legally deposited out of a ballot box **or out of a voting system** for the purpose of destroying ~~it~~ **the ballot** or substituting another **ballot** in its place;

(2) destroys or misplaces a ballot with the intent to substitute another ballot for it or with the intent to prevent it from being counted; or

(3) knowingly enters upon the poll books the name of a person who has not legally voted or knowingly tallies a vote for a candidate or on a public question not voted for by the ballot; commits a Class D felony.

SECTION 22. IC 3-14-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

(1) during the progress of an election or within the time for preparation required under this title, knowingly breaks open or violates the seal or lock of a ballot box, envelope, container, ~~or~~ bag, **or voting system component** in which ballots have been deposited;

(2) knowingly obtains a ballot box, envelope, container, ~~or~~ bag, **or voting system component** that contains ballots and cancels, withholds, or destroys a ballot;

(3) knowingly increases or decreases the number of ballots legally deposited in a ballot box, envelope, container, ~~or~~ bag, **or voting system component**; or

(4) knowingly makes a fraudulent erasure or alteration on a tally sheet, poll book, list of voters, or election return deposited in a ballot box, envelope, ~~or~~ bag, **or voting system component**;

commits a Class D felony.

SECTION 23. IC 3-14-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who knowingly inspects a ~~voting machine or electronic~~ voting system under IC 3-12-4-18 without obtaining authorization from the state recount commission to conduct the inspection commits a Class D felony.

SECTION 24. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. **A person who knowingly does any of the following commits a Class D felony:**

(1) **Procures or submits voter registration applications known by the person to be materially false, fictitious, or fraudulent.**

(2) **Procures, casts, or tabulates ballots known by the person**

C
o
p
y



to be materially false, fictitious, or fraudulent.

SECTION 25. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

- (1) deceiving a voter;
- (2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ballot label on a voting machine system or any part thereof of a voting system commits a Class D felony.

SECTION 26. IC 3-14-3-16, AS AMENDED BY P.L.66-2003, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

(1) on election day within:

(A) the polls; or

~~(B) fifty (50) feet of the entrance to the polls; or~~

(B) the chute;

(2) within an area in the office of the circuit court clerk used by an absentee voter board to permit an individual to cast an absentee ballot; or

(3) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law;

commits a Class A misdemeanor.

SECTION 27. IC 3-14-3-18, AS AMENDED BY P.L.176-1999, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section, "candidate" includes an individual whom the person knows is considering becoming a candidate.

(b) A person who, for the purpose of influencing a voter or candidate, **does any of the following commits a Class D felony:**

- (1) Seeks to enforce the payment of a debt by force or threat of force.
- (2) Ejects or threatens to eject the voter or candidate from a house

C
o
p
y



the voter or candidate occupies.

(3) Begins a criminal prosecution. ~~or~~

(4) Damages the business or trade of the voter or candidate.

~~commits a Class D felony.~~

(5) Communicates a threat to commit a forcible felony (as defined in IC 35-41-1-11) against a voter or a candidate with the intent that the voter or candidate:

(A) engage in conduct against the voter's or candidate's will; or

(B) be placed in fear of retaliation for a prior lawful act as a voter or a candidate.

SECTION 28. IC 3-14-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

(1) cast an absentee ballot; or

(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; gives, offers, or promises to any person any money or other property commits a Class D felony.

SECTION 29. IC 3-14-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who, for the purpose of inducing or procuring a voter to:

(1) cast an absentee ballot; or

(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; receives, accepts, requests, or solicits from any person any money or other property commits a Class D felony.

SECTION 30. IC 3-14-3-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. A person who knowingly or intentionally intimidates, threatens, or coerces an individual for:**

(1) voting or attempting to vote; or

(2) exercising any power or duty under this title concerning registration or voting;

commits voter intimidation, a Class D felony.

SECTION 31. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the **county election board for delivery by the**

C
o
p
y



1 prosecuting attorney for the county ~~who~~ **to the grand jury under**
 2 **section 2 of this chapter. The prosecuting attorney for the county**
 3 shall:

4 (1) proceed as if the affidavit had been made before the
 5 prosecuting attorney; and

6 (2) ~~notify~~ **ensure that the grand jury notifies** the NVRA official
 7 **under section 2 of this chapter** if a violation of NVRA appears
 8 to have occurred.

9 SECTION 32. IC 3-14-5-2 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct
 11 election board shall, at the close of the polls, place all affidavits
 12 prescribed by this title for use on election day to determine the
 13 eligibility of a precinct election officer (or a person who wishes to cast
 14 a ballot) in a strong paper bag or envelope and securely seal it. Each
 15 member shall endorse that member's name on the back of the bag or
 16 envelope.

17 (b) The inspector and judge of the opposite political party shall
 18 deliver the ~~sealed~~ bag or envelope to the county election board. ~~whose~~
 19 ~~duty it is to~~ **The county election board shall do the following:**

20 (1) **Remove the affidavits from the bag or envelope.**

21 (2) **Mail a copy of each affidavit to the secretary of state.**

22 (3) **Replace the affidavits within the bag or envelope.**

23 (4) **Reseal the bag or envelope with the endorsement of the**
 24 **name of each county election board member on the back of**
 25 **the bag or envelope.**

26 (5) Carefully preserve ~~it~~ **the resealed bag or envelope** and
 27 deliver it, with the **county election board's** seal unbroken, to the
 28 foreman of the grand jury when next in session.

29 (c) The grand jury shall inquire into the truth or falsity of the
 30 affidavits, and the court having jurisdiction over the grand jury shall
 31 specially charge the jury as to its duties under this section.

32 (d) The grand jury shall file a report of the result of its inquiry with:

33 (1) the court; and

34 (2) the NVRA official if a violation of NVRA appears to have
 35 occurred.

36 SECTION 33. IC 33-16-4-1, AS AMENDED BY P.L.176-1999,
 37 SECTION 130, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE UPON PASSAGE]: Sec. 1. The following are authorized
 39 to subscribe and administer oaths and take acknowledgments of all
 40 documents whatsoever, pertaining to all matters where an oath is
 41 required:

42 (1) Notaries public.

C
o
p
y



(2) Justices and judges of courts, in their respective jurisdictions.

(3) The secretary of state of Indiana.

(4) The clerk of the supreme court.

(5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.

(6) Clerks of circuit courts and master commissioners, in their respective counties.

(7) Judges of United States district courts of Indiana, in their respective jurisdictions.

(8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.

(9) The following, for any purpose authorized under IC 3:

(A) A precinct election officer (as defined in IC 3-5-2-40.1).
and

(B) An absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(C) The director, the assistant director, or an employee of the board of elections and registration established by IC 3-6-5.2-3.

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana.

SECTION 34. IC 35-44-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who:

(1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant;

(2) being a public servant, solicits, accepts, or agrees to accept, either before or after ~~he~~ **the person** becomes appointed, elected, or qualified, any property, except property ~~he~~ **the person** is authorized by law to accept, with intent to control the performance of an act related to ~~his~~ **the person's** employment or function as a public servant;

(3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act

C
o
p
y



related to the employment or function of a public servant;

(4) solicits, accepts, or agrees to accept any property, except property ~~he~~ **the person** is authorized by law to accept, with intent to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that ~~he~~ **the person** will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning ~~him~~ **the person** to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from the proceeding or investigation to which ~~he~~ **the person** has been legally summoned; ~~or~~

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning the witness or informant to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from any proceeding or investigation to which the witness or informant has been legally summoned; **or**

(9) confers, offers or agrees to confer any property on an individual for:

(A) casting a ballot or refraining from casting a ballot; or

(B) voting for a political party, for a candidate, or for or against a public question;

in an election described in IC 3-5-1-2, or at a convention of a political party authorized under IC 3;

C

O

P

Y



1 commits bribery, a Class C felony.

2 (b) It is no defense that the person whom the accused person sought
3 to control was not qualified to act in the desired way.

4 SECTION 35. [EFFECTIVE UPON PASSAGE] (a) The definitions
5 in IC 3-5-2 apply throughout this SECTION.

6 (b) Not later than March 31, 2004, the commission shall act
7 under IC 3-5-4-8 to prescribe absentee ballot application forms
8 that comply with IC 3-11, as amended by this act.

9 (c) This subsection does not apply to an absentee ballot
10 application form prescribed by the commission for use by an
11 absent uniformed services voter or overseas voter. An absentee
12 ballot application form prescribed by the commission before April
13 1, 2004, may not be used or accepted by a county election board
14 after March 31, 2004.

15 (d) This SECTION expires January 1, 2005.

16 SECTION 36. [EFFECTIVE UPON PASSAGE] (a) The legislative
17 council shall:

18 (1) direct an interim or statutory committee determined by
19 the legislative council to study the existing criminal penalties
20 for election law violations under IC 3; and

21 (2) direct the committee to report its findings to the legislative
22 council in an electronic format under IC 5-14-6 not later than
23 November 1, 2004.

24 (b) This SECTION expires January 1, 2005.

25 SECTION 37. An emergency is declared for this act.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1151, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 3-11-4-2, AS AMENDED BY P.L.126-2002, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. **Except as provided in subsection (b), the voter must sign the absentee ballot application.**

(b) **If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter.** If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) **A person who assists an individual in completing an absentee ballot application shall state the following information on the application:**

(1) **The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.**

(2) **The date and location at which this assistance was provided.**

(3) **That the individual has no knowledge or reason to believe that the individual submitting the application:**

(A) **is ineligible to vote or ineligible to cast an absentee ballot; or**

(B) **did not properly complete and sign the application.**

(d) **A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:**

(1) **noon seven (7) days after the individual receives the application; or**

(2) **the deadline set by Indiana law for filing the application with the board;**

whichever occurs first.

(e) **An individual filing an absentee ballot application received**

C
o
p
y



from another individual must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

- (1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.
- (2) A statement that the individual filing the affidavit has complied with the Indiana laws governing the submission of absentee ballot applications.
- (3) A statement that the individual has no knowledge or reason to believe that the individual whose application is to be filed:
 - (A) is ineligible to vote or to cast an absentee ballot; or
 - (B) did not properly complete and sign the application.
- (4) A statement that the individual is executing the affidavit under the penalties of perjury.
- (5) A statement setting forth the penalties for perjury.

(f) The county election board shall record the date and time of the filing of the affidavit and provide the individual with a file stamped copy of the affidavit without collecting any copying fee.

SECTION 3. IC 3-11-4-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter which contains a standardized oath for those voters. The form of the application for an absentee ballot must:

- (1) require the applicant to swear to or affirm under the penalties of perjury that all the information set forth on the application is true to the best of the applicant's knowledge and belief;
- (2) require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(c) of this chapter; and
- (3) set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

- (1) requests an absentee ballot; and
- (2) is eligible to vote in the precinct under IC 3-10-11 or

**C
O
P
Y**



IC 3-10-12;
must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

SECTION 4. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board **(or the absentee voter board in the office of the circuit court clerk)** shall determine if:

- (1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;
- (2) the information set forth on the application appears to be true; and
- (3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. The members of the absentee voter board or the county election board may compare the voter's signature on the application with the voter's signature on the voter's registration record to make a determination under this subsection.

(b) If:

- (1) the applicant is not a voter of the precinct according to the registration record; or if
- (2) the application as completed and filed:
 - (A) contains a false statement; or
 - (B) does not otherwise comply with ~~this chapter~~; **Indiana or federal law;**

as alleged under section 18.5 of this chapter, the county election board shall deny the application.

~~(b)~~ (c) This subsection applies ~~after December 31, 2003~~, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and

C
o
p
y



(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

~~(c) This subsection applies after December 31, 2003:~~

(d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and
- (2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(d)~~ **(e)** If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter."

Page 3, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 6. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with the county election board alleging that the application:**

- (1) is not submitted by a voter of the precinct;**
- (2) contains a false statement; or**
- (3) has not been executed or filed in accordance with Indiana or federal law.**

(b) The affidavit must be in a form prescribed by the

C
o
p
y



commission and state the following:

- (1) The name and title of the individual filing the affidavit.
- (2) A brief statement of the facts known or believed by the individual regarding why:
 - (A) the applicant is not a voter of the precinct;
 - (B) the application contains a false statement; or
 - (C) the application has not been executed or filed in accordance with Indiana or federal law.
- (3) That the individual is executing the affidavit under the penalties of perjury.
- (4) The penalties for perjury.

(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.

(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.

SECTION 7. IC 3-11-4-21, AS AMENDED BY P.L.209-2003, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

- (1) The name of the precinct and township (or ward and city or town).
- (2) That the voter is:
 - (A) a resident of; or
 - (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.
- (3) The voter's complete residence address, including the name of the city or town and county.
- (4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
- (5) That:
 - (A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;
 - (B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the

C
O
P
Y



individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or (C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury."

Page 4, between lines 20 and 21, begin a new paragraph and insert:

"(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall then deposit the sealed envelope in the United States mail for delivery to the county election board or may authorize a member of the voter's household or the individual designated as the voter's attorney in fact to deposit the envelope in the United States mail."

Page 4, line 21, strike "(c)" and insert "(d)".

Page 4, after line 25 begin a new paragraph and insert:

"SECTION 9. IC 3-11-10-25, AS AMENDED BY P.L.209-2003, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot because of:

(1) illness or injury; or

(2) caring for a confined person at a private residence;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

C
o
p
y



- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
 - (A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
 - (B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

- (1) agreed to by the board and the voter; and
- (2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is

C
O
P
Y



cast and counted, including the issuance of replacement ballots.

(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter. The Absentee Voter's Bill of Rights must be in a form prescribed by the commission and include the following:

- (1) A statement summarizing the rights and responsibilities of the voter when casting and returning the absentee ballot.**
- (2) A summary of Indiana and federal laws concerning providing assistance to the voter, completion of the ballot in secret, the intimidation of voters, and the return of the absentee ballot to the county election board.**
- (3) Information concerning how to report violations of the absentee ballot and election laws.**

SECTION 10. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor. knowingly does any of the following commits a Class D felony:

- (1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.**
- (2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.**
- (3) Pays or offers to pay an individual for doing any of the following:**
 - (A) Applying for an absentee ballot.**
 - (B) Casting an absentee ballot.**
 - (C) Registering to vote.**
 - (D) Voting.**
- (4) Accepts the payment of any property for doing any of the following:**
 - (A) Applying for an absentee ballot.**
 - (B) Casting an absentee ballot.**
 - (C) Registering to vote.**
 - (D) Voting.**

SECTION 11. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A person who does either of the following, knowing that an individual is ineligible to register to

**C
O
P
Y**



vote or to vote, commits absentee ballot fraud, a Class D felony:

(1) Solicits the individual to complete an absentee ballot application.

(2) Solicits the individual to submit an absentee ballot application to a county election board.

SECTION 12. IC 3-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who:

(1) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** knowing that the application contains a false statement; or

(2) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** without writing on it the person's own name and address as an attesting witness;

commits a ~~Class A misdemeanor~~ **Class D felony**.

SECTION 13. IC 3-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) A person who recklessly destroys or fails to deliver an absentee ballot application to the proper officer after the application has been executed in accordance with IC 3-11-4 commits a Class A misdemeanor.**

(b) A person who recklessly destroys or fails to file or deliver to the proper officer a registration affidavit or form of registration after it the affidavit or form has been executed commits a Class A misdemeanor.

SECTION 14. IC 3-14-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. A person who knowingly hires or solicits another person

~~(1) to come into Indiana; or~~

~~(2) to go from one precinct into another a precinct~~

for the purpose of voting at an election **at the precinct** when the person hired or solicited is not a voter in ~~Indiana~~ **or the precinct** commits a Class D felony.

SECTION 15. IC 3-14-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of the commission, an employee **or agent** of the ~~commission~~, **election division**, or a member, **an employee, or an agent** of a county election board who knowingly delivers a ballot to a person except in the manner prescribed by this title commits a Class D felony.

SECTION 16. IC 3-14-2-16, AS AMENDED BY P.L.38-1999, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A person who knowingly does any of the following commits a Class D felony:

C
o
p
y



- (1) Applies for or receives a ballot in a precinct other than that precinct in which the person is entitled to vote.
- (2) Except when receiving assistance under IC 3-11-9, shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted.
- (3) Except when offering assistance requested by a voter in accordance with IC 3-11-9, examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot.
- (4) Receives from a voter a ballot prepared by the voter for voting, except:
 - (A) the inspector;
 - (B) a member of the precinct election board temporarily acting for the inspector;
 - (C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or
 - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, **or an employee of the United States Postal Service**, when delivering an envelope containing an absentee ballot under IC 3-11-10-1.
- (5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.
- (6) Delivers a ballot to a voter to be voted, unless the person is:
 - (A) a poll clerk or authorized assistant poll clerk; or
 - (B) a member of a county election board or an absentee voter board acting under IC 3-11-10.
- (7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.
- (8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.
- (9) **Delivers an absentee ballot prepared by the voter for voting to a county election board, except for:**
 - (A) the inspector;
 - (B) a member of the precinct election board temporarily acting for the inspector;
 - (C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or
 - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, or an employee

C
o
p
y



of the United States Postal Service, when mailing an envelope containing an absentee ballot under IC 3-11-10-1.
(10) Possesses an unmarked absentee ballot, unless the person is authorized to possess the absentee ballot under this title as any of the following:

- (A) A printer.**
- (B) A county election board member.**
- (C) An absentee voter board member.**
- (D) An employee of the United States Postal Service when delivering an envelope containing an absentee ballot.**
- (E) An individual authorized to deliver an absentee ballot in a sealed envelope under IC 3-11-10-24.**
- (F) An absentee ballot counter under IC 3-11.5.**
- (G) A provisional ballot counter.**
- (H) A precinct election officer.**
- (I) The voter who applied for the absentee ballot.**
- (11) Completes or signs an absentee ballot application for a voter, or assists a voter in completing an absentee ballot application in violation of IC 3-11.**

SECTION 17. IC 3-14-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who knowingly:

- (1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted on a voting ~~machine~~; **system**; or
 - (2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes on a voting ~~machine~~; **system**;
- commits a Class D felony.

SECTION 18. IC 3-14-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

- (1) takes a ballot legally deposited out of a ballot box **or out of a voting system** for the purpose of destroying ~~it the ballot~~ or substituting another **ballot** in its place;
 - (2) destroys or misplaces a ballot with the intent to substitute another ballot for it or with the intent to prevent it from being counted; or
 - (3) knowingly enters upon the poll books the name of a person who has not legally voted or knowingly tallies a vote for a candidate or on a public question not voted for by the ballot;
- commits a Class D felony.

SECTION 19. IC 3-14-2-26 IS AMENDED TO READ AS



C
o
p
y

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

- (1) during the progress of an election or within the time for preparation required under this title, knowingly breaks open or violates the seal or lock of a ballot box, envelope, container, ~~or~~ bag, **or voting system component** in which ballots have been deposited;
- (2) knowingly obtains a ballot box, envelope, container, ~~or~~ bag, **or voting system component** that contains ballots and cancels, withholds, or destroys a ballot;
- (3) knowingly increases or decreases the number of ballots legally deposited in a ballot box, envelope, container, ~~or~~ bag, **or voting system component**; or
- (4) knowingly makes a fraudulent erasure or alteration on a tally sheet, poll book, list of voters, or election return deposited in a ballot box, envelope, ~~or~~ bag, **or voting system component**;

commits a Class D felony.

SECTION 20. IC 3-14-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who knowingly inspects a ~~voting machine or electronic~~ voting system under IC 3-12-4-18 without obtaining authorization from the state recount commission to conduct the inspection commits a Class D felony.

SECTION 21. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. A person who knowingly does any of the following commits a Class D felony:**

- (1) Procures or submits voter registration applications known by the person to be materially false, fictitious, or fraudulent.**
- (2) Procures, casts, or tabulates ballots known by the person to be materially false, fictitious, or fraudulent.**

SECTION 22. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

- (1) deceiving a voter;
- (2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ~~ballot label on~~ a voting ~~machine~~ **system** or any part ~~thereof of a voting system~~ commits a Class D felony.

SECTION 23. IC 3-14-3-16, AS AMENDED BY P.L.66-2003,



C
o
p
y

SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

(1) on election day within:

(A) the polls; or

~~(B) fifty (50) feet of the entrance to the polls; or~~

(B) the chute;

(2) within an area in the office of the circuit court clerk used by an absentee voter board to permit an individual to cast an absentee ballot; **or**

(3) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law;

commits a Class A misdemeanor.

SECTION 24. IC 3-14-3-18, AS AMENDED BY P.L.176-1999, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section, "candidate" includes an individual whom the person knows is considering becoming a candidate.

(b) A person who, for the purpose of influencing a voter or candidate, **does any of the following commits a Class D felony:**

(1) Seeks to enforce the payment of a debt by force or threat of force.

(2) Ejects or threatens to eject the voter or candidate from a house the voter or candidate occupies.

(3) Begins a criminal prosecution. ~~or~~

(4) Damages the business or trade of the voter or candidate.

~~commits a Class D felony.~~

(5) Communicates a threat to commit a forcible felony (as defined in IC 35-41-1-11) against a voter or a candidate with the intent that the voter or candidate:

(A) engage in conduct against the voter's or candidate's will; or

(B) be placed in fear of retaliation for a prior lawful act as a voter or a candidate.

SECTION 25. IC 3-14-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

C
O
P
Y



(1) cast an absentee ballot; or

(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; gives, offers, or promises to any person any money or other property commits a Class D felony.

SECTION 26. IC 3-14-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who, for the purpose of inducing or procuring a voter to:

(1) cast an absentee ballot; or

(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; receives, accepts, requests, or solicits from any person any money or other property commits a Class D felony.

SECTION 27. IC 3-14-3-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. A person who knowingly or intentionally intimidates, threatens, or coerces an individual for:**

(1) voting or attempting to vote; or

(2) exercising any power or duty under this title concerning registration or voting;

commits voter intimidation, a Class D felony.

SECTION 28. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the **county election board for delivery by the prosecuting attorney for the county** ~~who~~ **to the grand jury under section 2 of this chapter. The prosecuting attorney for the county shall:**

(1) proceed as if the affidavit had been made before the prosecuting attorney; and

(2) ~~notify~~ ensure that the grand jury notifies the NVRA official **under section 2 of this chapter** if a violation of NVRA appears to have occurred.

SECTION 29. IC 3-14-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each

C
O
P
Y



member shall endorse that member's name on the back of the bag or envelope.

(b) The inspector and judge of the opposite political party shall deliver the **sealed** bag or envelope to the county election board. ~~whose duty it is to~~ **The county election board shall do the following:**

- (1) Remove the affidavits from the bag or envelope.**
- (2) Mail a copy of each affidavit to the secretary of state.**
- (3) Replace the affidavits within the bag or envelope.**
- (4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.**
- (5) Carefully preserve it the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.**

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

- (d) The grand jury shall file a report of the result of its inquiry with:
- (1) the court; and
 - (2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 30. IC 35-44-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who:

- (1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant;
- (2) being a public servant, solicits, accepts, or agrees to accept, either before or after ~~he the person~~ becomes appointed, elected, or qualified, any property, except property ~~he the person~~ is authorized by law to accept, with intent to control the performance of an act related to ~~his the person's~~ employment or function as a public servant;
- (3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;
- (4) solicits, accepts, or agrees to accept any property, except property ~~he the person~~ is authorized by law to accept, with intent

C
o
p
y



to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that ~~he~~ **the person** will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning ~~him~~ **the person** to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from the proceeding or investigation to which ~~he~~ **the person** has been legally summoned; ~~or~~

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning the witness or informant to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from any proceeding or investigation to which the witness or informant has been legally summoned; **or**

(9) confers, offers or agrees to confer any property on an individual for:

(A) casting a ballot or refraining from casting a ballot; or

(B) voting for a political party, for a candidate, or for or against a public question;

in an election described in IC 3-5-1-2, or at a convention of a political party authorized under IC 3;

commits bribery, a Class C felony.

(b) It is no defense that the person whom the accused person sought to control was not qualified to act in the desired way.

C
O
P
Y



SECTION 31. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than March 31, 2004, the commission shall act under IC 3-5-4-8 to prescribe absentee ballot application forms that comply with IC 3-11, as amended by this act.

(c) This subsection does not apply to an absentee ballot application form prescribed by the commission for use by an absent uniformed services voter or overseas voter. An absentee ballot application form prescribed by the commission before April 1, 2004, may not be used or accepted by a county election board after March 31, 2004.

(d) This SECTION expires January 1, 2005.

SECTION 32. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1151 as introduced.)

MAHERN, Chair

Committee Vote: yeas 12, nays 0.

C
o
p
y



HOUSE MOTION

Mr. Speaker: I move that House Bill 1151 be amended to read as follows:

Page 20, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE UPON PASSAGE] (a) The legislative council shall:

(1) direct an interim or statutory committee determined by the legislative council to study the existing criminal penalties for election law violations under IC 3; and

(2) direct the committee to report its findings to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2004.

(b) This SECTION expires January 1, 2005."

Re-number all SECTIONS consecutively.

(Reference is to HB 1151 as printed January 30, 2004.)

KUZMAN

HOUSE MOTION

Mr. Speaker: I move that House Bill 1151 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-6-8-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) A watcher appointed under this chapter must satisfy both of the following:

(1) A watcher must be a registered voter of the county.

(2) A watcher may not be related to a candidate in a manner that would disqualify the watcher to serve as a precinct election officer under IC 3-6-6-7(a)(4)."

Page 11, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 11. IC 3-12-6-1.5, AS AMENDED BY P.L.40-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A candidate for election to precinct committeeman or state convention delegate is **not entitled to have the votes cast for that office recounted under this chapter. The political party of the candidate, in accordance with any applicable party rules, determines the winner of an election to a political party office.**

SECTION 12. IC 3-12-6-21.7 IS AMENDED TO READ AS

HB 1151—LS 7090/DI 75+



C
o
p
y

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.7. (a) **The recount commission shall count the ballots in each precinct separately.**

(b) Unless the recount commission makes a finding under subsection ~~(b)~~; **(c) and issues an order under subsection (d)**, the recount commission shall

~~(1)~~ count ballots in accordance with this article. ~~and~~

~~(2) not order that all ballots in a precinct not be counted.~~

~~(b)~~ (c) If

~~(1)~~ a party to the recount presents evidence of fraud, tampering, or misconduct ~~affecting that occurred in a precinct, the commission may make a finding that the fraud, tampering, or misconduct affected the integrity of the ballot balloting within a that precinct and~~

~~(2) to the extent that the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission is unable to determine the approximate number of votes that each candidate received in that precinct.~~

(d) If the commission makes a finding under subsection (c), the commission may order that none of the ballots from that precinct be counted.

(e) If the commission adopts an order permitted by subsection (d), the commission shall determine the number of votes received by each candidate without including any votes cast in the affected precinct."

Page 18, between lines 36 and 37, begin a new paragraph and insert:
"SECTION 33. IC 33-16-4-1, AS AMENDED BY P.L.176-1999, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The following are authorized to subscribe and administer oaths and take acknowledgments of all documents whatsoever, pertaining to all matters where an oath is required:

- (1) Notaries public.
- (2) Justices and judges of courts, in their respective jurisdictions.
- (3) The secretary of state of Indiana.
- (4) The clerk of the supreme court.
- (5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.
- (6) Clerks of circuit courts and master commissioners, in their respective counties.
- (7) Judges of United States district courts of Indiana, in their



C
o
p
y

respective jurisdictions.

(8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.

(9) **The following, for any purpose authorized under IC 3:**

(A) A precinct election officer (as defined in IC 3-5-2-40.1).
~~and~~

(B) An absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(C) **The director, the assistant director, or an employee of the board of elections and registration established by IC 3-6-5.2-3.**

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana."

Renumber all SECTIONS consecutively.

(Reference is to HB 1151 as printed January 30, 2004.)

KUZMAN

C
o
p
y

